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NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD OF PATENT APPEALS AND INTERFERENCES		Docket Number (Optional) GRA26 009
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Applicant hereby appeals to the Board of Patent Appeals and Interferences from the last decision of the examiner.		
The fee for this Notice of Appeal is (37 CFR 41.20(b)(1))		\$ 540.00
<input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27. Therefore, the fee shown above is reduced by half, and the resulting fee is:		\$ _____
<input type="checkbox"/> A check in the amount of the fee is enclosed.		
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<input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.		
<input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment to Deposit Account No. <u>04-1679</u> .		
<input type="checkbox"/> A petition for an extension of time under 37 CFR 1.136(a) (PTO/SB/22) is enclosed.		
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.		
I am the		
<input type="checkbox"/> applicant/inventor.	_____ /mcc/ <div style="text-align: right;">Signature</div>	
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)	Mark C. Comtois <div style="text-align: right;">Typed or printed name</div>	
<input checked="" type="checkbox"/> attorney or agent of record. 46,285 Registration number _____	202-776-7800 <div style="text-align: right;">Telephone number</div>	
<input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34. _____	08 January 2009 <div style="text-align: right;">Date</div>	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.		

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PTO/SB/33 (12-08)

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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) GRA26 009	
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____ Signature _____ Typed or printed name _____		Application Number 10/531,038 First Named Inventor Joseph P. KENNEDY, Jr. Art Unit 2618	Filed 12 April 2005 Examiner Andrew Wendell
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
I am the <input type="checkbox"/> applicant/inventor. <input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96) <input checked="" type="checkbox"/> attorney or agent of record. Registration number <u>46,285</u> <input type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____		<u>/mcc/</u> _____ Signature Mark C. Comtois _____ Typed or printed name 202.776.7800 _____ Telephone number 08 January 2009 _____ Date	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.			

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This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of Joseph P. KENNEDY, JR. et al.

Serial No.: 10/531,038

Art Unit: 2618

Filed: 12 April 2005

Examiner: Andrew Wendell

Title: **SYSTEM AND METHOD OF OPERATION FOR NETWORK OVERLAY
GEOLOCATION SYSTEM WITH REPEATERS**

PRE-APPEAL CONFERENCE BRIEF

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicants request review of the final rejection in the above-identified application in view of the following remarks.

I. The rejection of Claims 1-10 and 36 over Stein and Kennedy is improper whereas Kennedy as relied upon by the Office fails to disclose *"determining if one of the plural signals has passed through the first repeater is based in part on a difference between the times of arrival of two of the plural signals at the geolocation system."*

A. The Office Acknowledges Stein does not teach the subject limitation. (see Final Office Action 10/08/08, page 3).

B. Kennedy determines the location of a mobile based of TDOA in the portion cited by the Office.

"Determining a time difference of arrival between each pair of identified reference signals, **determining a geographic area** in which the mobile appliance is located based on the identity of the identified reference signals, and **determining a geolocation** of the mobile appliance based on the determined time differences of arrival of the identified reference signals by conventional TDOA methods." [emphasis added] Kennedy ('158, col. 1, ll. 15-30), see also Applicant's Response 6/11/08,

page. 13

C. Kennedy does not disclose the determining step. (Applicant's Response 6/11/08, page 13).

II. The rejection of Claims 12, 14-17, 24 over Stein and Kennedy '775 is improper whereas Stein as relied upon by the Office fails to disclose that the tether is monitored between the repeater and the antenna feed interface.

A. Claim 12 recites "*wherein the geolocation sensors monitor the tether between the at least one repeater and an antenna feed interface for the mobile appliance's signal*".

B. The Office relies upon Stein to provide the subject limitation. "Stein teaches....wherein the geolocation sensors monitor (identification code) the tether (Section 0024) between the at least one repeater and an antenna feed interface for the mobile appliance's signal (Sections 0007-0009 and 0039 -0040)." (Office Action 10/08/08, page 5).

C. Stein is silent with respect to where the tether is monitored. (Applicant's Response 6/11/08, page 14).

III. The rejection of Claims 26-29 over Stein and Kennedy '775 is improper whereas Stein as relied upon by the Office fails to disclose "*relaying information regarding the channel of the mobile appliance's signal*".

A. The Office relies on Stein to provide the claim limitation. "Stein ...discloses relaying from the at least one repeater station information regarding the channel of the mobile appliance's signal to a geolocation system" as cites paragraphs [0007-0009 and 0116-0117] as a basis. (Office Action 10/08/08 , pages. 6-7).

B. Stein discloses in the relied upon sections transmitting the identification code of the repeater over a different channel. Stein '663 [0007-0009 and 0116-0117]

C. There is no disclosure in the specification of Stein of the repeater sending the channel over which it received the mobile appliance's signal to the geolocation system as required in the claim.

IV. The rejection of Claims 13 and 18-21 over Stein in view of Kennedy '775 and Tekinay is improper whereas Tekinay as relied upon by the Office fails to disclose "*adjusting the time of arrival of the mobile appliances signal based on the determination if*"

the mobile appliance is being served by the one of the at least one repeaters.”

A. The Office acknowledges that Stein and Kennedy fail to teach adjusting the time of arrival of the mobile appliance signal. (See Final Office Action 10/08/08, page 8).

B. The Office relies upon Tekinay. “Tekinay teaches adjusting the time of arrival of the mobile appliance signal (Sections 0011 and 0028)” (See Final Office Action 10/08/08 page 8).

C. Tekinay adjusts the determined time of arrival based on scattering. (Tekinay ‘110 [0011]).

D. There is no teaching in Tekinay that adjusts TOA based on a determination of a mobile being served by a repeater.

V. The rejection of Claim 23¹ over Stein in view of Lindqvist is improper whereas Stein as relied upon by the Office fails to disclose “detecting signals from the target mobile appliance on another of the at least one repeater station’s communication tether”

A. The Office relies upon Stein to provide the subject limitation. (See Final Office Action 10/08/08, page 10)

B. Stein is silent with respect to using more than one repeater in locating the mobile.

V1. The rejection of Claims 30-33 over Stein in view of Kennedy ‘775 and Hymel is improper whereas Hymel does not disclose “*disregarding a second signal received from the mobiles appliance at each of the plural base stations when determining the location of the mobile appliance*”.

A. The Office acknowledges that “Stein and Kennedy fail to teach disregarding a second signal.” (See Final Office Action 10/08/08, page 12).

B. Hymel does not disclose disregarding a second signal when determining geolocation. (Applicant’s Response 6/11/08, page 18).

VII. The rejection of Claim 34 over Stein in view of Bloebaum is improper whereas Bloebaum as relied upon by the Office does not disclose “*a geolocation sensor attached to the communication tether between the base station and the repeater station.*”

¹ The Final Office Action rejected Claim 22, which was previously cancelled.

A. The Office relies upon Bloebaum to provide the limitation. (See Final Office Action 10/08/08, page 12).

B. Bloebaum does not provide the limitation. (Applicant's Response 6/11/08, pages 19-20).

VIII. The rejection of Claim 35 over Stein in view of Bloebaum and Kennedy 775 is improper whereas Bloebaum as relied upon by the Office does not disclose "*said geolocation sensor is located on said tether prior to said interface.*"

A. The Office relies upon Bloebaum to provide the limitation. (See Final Office Action 10/08/08, page 15).

B. Bloebaum does not provide the limitation. (Applicant's Response 6/11/08, page 20).

IV. The rejection of Claim 37 over Stein in view of Kennedy '158 and Kennedy '024 is improper whereas Kennedy '158 as relied upon by the Office does not disclose "*determining if one of the plural signals has passed through the first repeater is based in part on a difference between the times of arrival of two of the plural signals at the geolocation system.*"

A. The Office Acknowledges Stein does not teach the limitation. (See Section I. A above).

B. The Office relies upon Kennedy '158 to provide the limitation. (See Final Office Action 10/08/08, page. 17).

C. Kennedy '158 does not disclose the determining step. (Applicant's Response 6/11/08, page 13).

V. Conclusion

The Applicant requests review of the Final Rejection and withdrawal of the rejections in view of the above comments and the Applicant's previous responses. The Office has failed to provide a teaching for each and every limitation. The Applicant also request allowance of the Application.

Respectfully submitted,

/mcc/

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